

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Milari Madison
Appeal No. 07-1

Hearing Date: August 17, 2007

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board ("Review Board") is a Governor-appointed board established to rule on disputes arising from application of the Virginia Uniform Statewide Building Code ("USBC") and other regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. Enforcement of the USBC in other than state-owned buildings is by local city, county or town building departments. See § 36-105 of the Code of Virginia. An appeal under the USBC is first heard by a local board of building code appeals and then may be further appealed to the Review Board. See § 36-105 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

The appeal to the Review Board is brought by Milari Madison ("Ms. Madison"), a resident of the Town of Waterford, in Loudoun County.

By email correspondence dated December 15, 2006 to Loudoun County, Ms. Madison requested the Loudoun County USBC official (the "building official") to declare a shed located between 40210 and 40200 Main Street and owned by Paul and Adene Rose (the "Roses") to be unsafe.

By email correspondence dated December 18, 2006, Ms. Madison was copied on email correspondence from the building official stating that the shed was not in immediate danger of collapse and no notice [of an unsafe structure under the USBC] would be issued.

Ms. Madison appealed the building official's determination to the Loudoun County Board of Building Code Appeals ("County USBC board") by application dated December 22, 2006.

The County USBC board heard Ms. Madison's appeal on February 6, 2007 and ruled that Ms. Madison was not a proper party to appeal and that the decision of the building official was correct.

Ms. Madison further appealed to the Review Board by application dated March 10, 2007. The Review Board heard Ms. Madison's appeal on August 17, 2007 with Ms. Madison participating by telephone and a representative of the Loudoun County Attorney's Office present before the Review Board.

III. FINDINGS OF THE REVIEW BOARD

The Review Board has consistently ruled that in accordance with § 36-105 of the Code of Virginia and the appeals provisions in the USBC, the right to appeal under the USBC extends to only those persons to whom the USBC has been applied or may be directly affected by such application, such as owners and tenants of buildings and contractors and subcontractors constructing such buildings.¹

This case is no different. Ms. Madison provided testimony that she is not the owner of the property where the shed is located, nor is she renting or leasing the shed or in any other way associated with the property or with the shed. She further testified that her interest in this situation is in showing that the building official is issuing inconsistent rulings as he declared an old house on property she owns as unsafe while it was not in immediate danger of collapse.

¹ See Appeal Nos. 95-3 and 98-11 where the Review Board held respectively that a disability advocacy group and the Cast Iron Soil Pipe Institute did not have standing to appeal USBC decisions since they were not owners of the buildings in question nor had the application of the USBC been against them.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the appeal to be, and hereby is, dismissed. Additionally the Review Board orders the decision of the County USBC board to be, and hereby is, vacated to the extent that it addressed the merits of the building official's decision as that issue was not properly before the board.

The appeal is denied.

/s/*

Chairman, State Technical Review Board

11-16-2007

Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Vernon W. Hodge, Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

***Note:** The original signed final order is available from Review Board staff.